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Counsel for Defendant Jose Torres-Calderon

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE TORRES-CALDERON,

Defendant.

CASE NO. CR-07-00745-1 JF

EXPEDITED MOTION TO WITHDRAW;
DECLARATION OF ATTORNEY IN
SUPPORT THEREOF; [xxxxxxxxxxxx
ORDER PERMITTING WITHDRAWAL

TO: THE HON. JEREMY FOGEL; JOSEPH P. RUSSONOELLO, UNITED STATES
ATTORNEY AND CHAD M. MANDELL, ASSISTANT UNITED STATES ATTORNEY; AND
TO HECTOR MACIAS-VALENCIA, DEFENDANT:

NOTICE IS HEREBY GIVEN THAT Mr. Jose Torres-Calderon and undersigned counsel
will and hereby do move the Court for an Order permitting the withdrawal of counsel and the
appointment of new CJA counsel to represent Mr. Jose Torres-Calderon in the appeal of this case.

This Expedited Motion is filed pursuant to Criminal Local Rules 44-2(b) and 47-3.

DECLARATION OF ALFREDO M. MORALES:

I, declare as follows:

1. I am an attorney at law and a member of the Bar of this Court. I was appointed under the
Criminal Justice Act to represent Jose Torres Calderon on or about April 16, 2008 If called as a
witness, I could and would competently testify to the following:

2. I represented Jose Torres Calderon through the sentencing in this case. The case is now
concluded at the district court level.

MOTION TO WITHDRAW AS ATTORNEY OF RECORD

1 3. Prior to the sentencing in this case, as well as after the sentencing, Jose Torres-Calderon
2 and I discussed his options regarding appeal in this case. I answered all his questions and fully
3 advised him of the advantages and disadvantages of, and the procedures for, requesting new counsel
4 from the CJA appellate panel if that was his wish. He agreed to waive his right to appeal and this
5 was done in open court on July 17, 2008. Mr. Calderon-Torres was sentenced on July 25, 2008 and
6 judgment was entered on August 1, 2008.

7 4. On August 4, 2008 Mr. Torres-Calderon informed me for the first time that he wished file
8 an appeal regarding the sentence. I advised him that I do not handle appeals and that in any event
9 I could not handle his appeal as I believed I would have a conflict of interest. Mr. Calderon-Torres
10 asked me to please request that another attorney, to be selected from the CJA appellate panel
11 according to the panel's usual procedures, to represent him on the appeal of this case.

12 5. I am not a member of the CJA appellate panel and I have never handled an appeal.

13 6. Further, for me to represent Mr. Torres-Calderon may be a conflict of interest if he were
14 to argue ineffective assistance of counsel on appeal.

15 7. There will be little or no inefficiency in appointing new counsel on appeal. If appointed
16 now, new appellate counsel would enter the appeal at the earliest possible stage with virtually no
17 duplication of effort.

18 8. I am advised that the Federal Public Defender can appoint new counsel from the CJA
19 appellate panel on approximately one day's notice. I am informed and believe and thereon allege
20 that appointing new CJA counsel at the appellate stage to replace CJA trial counsel is routine
21 whenever the defendant requests it.

22 9. I will continue to represent Mr. Jose Torres-Calderon until replaced. If necessary, I will
23 file the Notice of Appeal if the deadline arrives before new CJA counsel is appointed. Mr. Torres
24 Calderon will not be prejudiced by granting this motion.

25 10. On August 4, 2008 I spoke to AUSA Chad Mandell and advised him that I would be
26 filing this motion to be relieved as counsel of record.

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MOTION TO WITHDRAW AS ATTORNEY OF RECORD

1 I declare under penalty of perjury that the foregoing is true and correct and was executed in
2 San Jose , California this 4th day of August 2008.

3 Respectfully submitted,

4
5 /s/
6 Alfredo M. Morales, Esq.

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8 **ORDER**

9 It is hereby ORDERED as follows:

- 10 1. Alfredo M. Morales may withdraw as counsel for defendant Mr. Jose Torres-Calderon.
11 2. The Federal Public Defender shall forthwith arrange for CJA counsel to represent
12 defendant in the appeal of this case.
13 3. Alfredo M. Morales shall continue to represent the defendant until new counsel is
14 appointed, and shall remain responsible for filing the Notice of Appeal for Mr. Torres-Calderon
15 in the event that new counsel is not appointed in time to do so.

16 Dated: August 5, 2008



17 Hon. xxxxxxxxxxxxxx

18 United States xxxxxxxx

19 Magistrate Judge
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MOTION TO WITHDRAW AS ATTORNEY OF RECORD